THE HIGH COURT OF DELHI AT NEW DELHI

% Judgment delivered on : 20.03.2007

\+ **WP (C) 1895/2007**

TIRATH RAM SHAH HOSPITAL ...Petitioner

- versus -

NATIONAL BOARD OF EXAMINATIONS & ANR ...Respondents

Advocates who appeared in this case:

For the Petitioners : Mr A.K. Singla, Sr Advocate with Mr Pankaj Gupta and Mr Ankur Mittal
For the Respondent No.1 : Mr Manmohan, Sr Advocate with Mr Rakesh Gosain.
For the Respondent No.2. : Ms Iram Majid for Ms Zubeda Begum

with

WP(C) 1714/2007

JAIPUR GOLDEN HOSPITAL ...Petitioner

- versus -

NATIONAL BOARD OF EXAMINATIONS & ANR ...Respondents

Advocates who appeared in this case:

For the Petitioners : Mr A.K. Singla, Sr Advocate with Mr Pankaj Gupta and Mr Ankur Mittal
For the Respondent No.1 : Mr Manmohan, Sr Advocate with Mr Rakesh Gosain.
For the Respondent No.2 : Ms Parul Sharma for Mr V. K. Tandon

with

WP(C) 11957-63/2006

DR ANUJ TYAGI & ORS ...Petitioners

- versus -

NATIONAL BOARD OF EXAMINATIONS & ORS ...Respondents

Advocates who appeared in this case:

For the Petitioner : Mr Rajiv Kumar
For the Respondent No.1 : Mr Manmohan, Sr Advocate with Mr Rakesh Gosain.
For the Respondent No.2 : Mr A.K. Singla, Sr Advocate with Mr Pankaj Gupta and Mr Ankur Mittal

CORAM:-
HON'BLE MR JUSTICE BADAR DURREZ AHMED

1. Whether Reporters of local papers may be allowed to see the judgment? YES

2. To be referred to the Reporter or not? YES

3. Whether the judgment should be reported in Digest? YES

BADAR DURREZ AHMED, J (ORAL)

1. These three petitions are taken up together as they involve common issues. WP(C) 1895/2007 has been filed by Tirath Ram Shah Hospital. WP(C) 11957-63/2006 has been filed by Dr Anuj Tyagi and other Doctors who are DNB[1] trainees at Tirath Ram Shah Hospital. WP(C) 1714/2007 has been filed by Jaipur Golden Hospital. The respondent in each of these petitions is the National Board of Examinations.

2. The main issue pertains to the amount of stipend that is to be paid to DNB trainees by hospitals which are accredited to the National Board of Examinations (hereinafter referred to as "the NBE") insofar as the various specialties / super-specialties are concerned. The case for the hospitals is that the circular issued on 08.05.2006, which is impugned by them, is based upon the judgments / orders of a learned Single Judge of this Court passed on 23.11.2005 and 06.01.2006 and that these judgments / orders have been set aside by a Division Bench of this court on 31.3.2006. By the order dated 06.01.2006, the learned Single Judge of this court had directed that the stipend

1 Diplomate of National Board

paid by accredited hospitals / institutions to the DNB trainees ought to be Rs 19,000/- per month. According to Mr Singla, the learned Senior counsel appearing on behalf of the hospitals, this direction given by the learned Single Judge has been set aside by the Division Bench on 31.03.2006 in an appeal from that order. Therefore, the NBE ought not to insist upon the hospitals paying the stipend at the rate of Rs.19,000/- per month as a condition for renewing the accreditation accorded to the hospitals. The letters dated 05.02.2007 and 28.02.2007 issued to the Jaipur Golden Hospital and Tirath Ram Shah Hospital (respectively) by the NBE indicating the disapproval for renewal of accreditation have also been challenged. The ground taken in the letters of February, 2007 issued to both the hospitals is that the said hospitals are not complying with the guidelines of the NBE with respect to the payment of stipend to DNB trainees.

3. According to Mr Manmohan, the learned Senior counsel appearing on behalf of the NBE, the guidelines prescribed the payment of Rs.19,000/- per month stipend to the DNB trainees. He submits that this stipend has been determined not just on the basis of the decision of the learned Single Judge dated 06.01.2006 but also on the basis of an independent exercise carried out by the NBE by constituting a Committee and by inviting suggestions / consulting with a sample of accredited Institutions / Hospitals. It was also pointed out by Mr Manmohan that the DNB qualification which is awarded by the NBE has

been treated to be equivalent to the MD / MS degrees not only by the Government of India but also by the Supreme Court in the decision rendered on 02.05.2001 in the case of ***Kidwai Memorial Institute of Onchology & Anr v. State of Karnataka & Ors*** passed in Civil Appeal Nos.3520/2001 & 3521/2001.

4. The entire issue, therefore, is — what is the effect of the Division Bench decision upon the stipend of Rs.19,000/- per month fixed for DNB trainees? To consider the rival contentions of the parties, it would be necessary to give a resume of the facts leading up to the said decision. A petition had been filed before this court by Dr Vishal Sehgal with regard to the issue of payment of stipend to him as he was a DNB trainee. The hospital concerned in that case was Deen Dayal Upadhyay Hospital. The grievance of Dr Vishal Sehgal was that he was not being paid a stipend though initially he had been paid a stipend but the same had been discontinued. After examining the entire issue in depth, a learned Single Judge of this court came to the conclusion that Dr Vishal Sehgal was entitled to receive stipend from Deen Dayal Upadhyay Hospital yet the amount "cannot be same as is being paid to the MD / MS students who are working as Junior Residents". The court further observed that what the amount should be is not within the domain of this court. The quantum has to be worked out by the Hospital in consultation with the NBE. The court, however, observed that all that can be said is that the amount ought not to be

less than Rs.10,000/- per month. This decision of the learned Single Judge is reported as ***Dr Vishal Sehgal & Ors v Secretary (Health) : 116 (2005) DLT 493.***

5. It may be pertinent to note that, as informed by Mr Manmohan, the NBE was not a party to those proceedings and, therefore, it could not be pointed out that DNB qualification was equivalent to the MD / MS qualification which position is now settled by the Government of India Circular issued on 01.06.2006 as well as the Supreme Court decision in ***Kidwai Memorial Institute of Onchology*** referred to above.

6. After the decision in ***Dr. Vishal Sehgal*** *(supra)*, an order was passed by the Secretary (Health) Government of NCT of Delhi on 31.07.2003 with regard to payment of stipend to students pursuing the DNB courses in the hospitals under the control of the Government of NCT of Delhi. That order had reference to the said judgment in ***Dr Vishal Sehgal*** (supra) and prescribed that the students, who are undergoing the DNB course in the hospitals under the control of the Government of NCT of Delhi, shall be paid a stipend at the rate of Rs.10,000/- per month. On 10.2.2004 the NBE had given accreditation to the Tirath Ram Shah Hospital for the specialty of Paediatrics w.e.f. January, 2004 to December, 2006. Paragraph 2(c) of the said accreditation stipulated that the DNB trainees be paid stipend equivalent to the sum paid to other PG

trainees (MD / MS) in their respective States. On 20.12.2004 the NBE issued revised guidelines for accreditation to DNB courses. The stipulation with regard to the remuneration / stipend was mentioned in para 9 of the Revised Minimum Criteria for DNB courses which reads as under :-

> "9. Remuneration / Stipend
>
> Accredited hospitals should pay each trainee (both Post MBBS & Post Diploma) a minimum monthly stipend not less than the following rates. It is also desirable that the Hospital provides accommodation to their trainees in addition to their stipend :-

Programme	***First Year***	***Second Year***	***Third Year***
Broad Specialities	Rs. 8,000/-	Rs. 9,000/-	Rs. 10,000/-
Super Specialities	Rs. 10,000/-	Rs. 11,000/-	Rs. 12,000/-

> An undertaking to pay all DNB trainees at the above mentioned rates should be submitted to NBE while applying for accreditation."

7. In the present cases, which are concerned with super specialties, if one looks at the table given above, the stipend that is to be paid for super specialties is Rs. 10,000/- in the first year, Rs. 11,000/- in the second year and Rs. 12,000/- for the third year. This revised guideline with regard to stipends was incorporated in the fresh accreditation given to Tirath Ram Shah Hospital on 22.12.2005 with regard to the specialty of obstetrics and gynaecology for the period of January, 2006 to December, 2008. The said accreditation contained condition 2(f) which reads as under :

> "f) **Stipend / Remuneration** : that, the hospital will pay each trainee (both Post MBBS & Post Diploma) a minimum

monthly stipend not less than the following rates. It is also desirable that the Hospital provides accommodation to their trainees in addition to their stipend. NBE has no objection to the payment of a sum exceeding the amount stipulated, according to the stature of the institution and work load of the trainees :-

Programme	***First year***	***Second year***	***Third year***
Broad Specialities	Rs. 8,000/-	Rs. 9,000/-	Rs. 10,000/-
Super Specialities	Rs. 10,000/	Rs. 11,000/-	Rs. 12,000/-

A reading of this condition indicates that while the minimum rates were prescribed by the NBE, it was also indicated that the NBE had no objection to the payment of a sum exceeding the amount stipulated, according to the stature of the institution and work load of the trainee. What is clear is that the stipends prescribed by the NBE were the minimum stipends to be paid by accredited institutions such as the Tirath Ram Shah Hospital.

8. On 06.01.2006 the learned Single Judge of this court had decided the writ petitions being WP(C) 19903/2004 and other connected matters titled ***Dr Shiv Shanker Shahi & Ors v Government of N.C.T. Of Delhi & Ors***. The order passed in those writ petitions reads as under :-

> "O R D E R
> 06.01.2005
>
> In the judgment of Madan B. Lokur dated December 18, 2002, it had been directed that DNB students should not be paid less than Rs.10,000/- per month.

> It needs to be clarified that these students have already passed their MBBS degree. Junior Doctors presently are being paid a stipend of Rs.17,000/- per month. Post-graduate Doctors are presently receiving a stipend of Rs.20,121/- per month. The University Grants Commission has taken a positive approach in the matter. It has conveyed to the Court by letter dated 5.1.2005 that it will honour the decision of the Court or of any other Authority for payment of enhanced stipend to DNB students.
>
> Keeping the stipends already being paid in view, I direct that a stipend of Rs.19,000/- per month be paid to the petitioners and other DNB students similarly placed. Thereafter whenever stipends are increased, the present ratio be maintained. Stipends be paid with effect from 1.1.2006.
>
> Writ petitions stand disposed of in these terms, with no order as to costs.
>
> VIKRAMAJIT SEN, J"

It appears that appeals were preferred against the said decision by the Principal Secretary of the Government of NCT of Delhi. The same were disposed of on the first hearing itself by a Division Bench of this Court by an order / judgment dated 31.3.2006. It is interesting to note that no appearance was entered on behalf of the NBE because, as per Mr Manmohan, no advance notice had been given for it. The said Division Bench decision referred to the Government of NCT of Delhi order dated 31.7.2003 which were to DNB courses in the hospitals under the Government of NCT of Delhi. The requirement, thereunder, was for payment of a stipend of Rs.10,000/- per month. Referring to the said Government order dated 31.7.2003, the Division Bench held that the writ petitioners were entitled to stipends @ Rs.10,000/- per month and that the

stipend fixed by the learned Single Judge of Rs.19,000/- per month cannot be sustained. The reasoning given by the Division Bench was that the fixation of pay / grant of stipend ought not to have been done by the Court as these are executive functions and that, ordinarily, it would not be appropriate for a court to fix the same. The Division Bench while setting aside the direction with regard to the payment of stipend at the rate of Rs.19,000/- fixed by the learned Single Judge, at the same time felt that the stipend of Rs.10,000/- per month appeared to be inadequate and directed the appellants to consider the prayer of the writ petitioners for a higher stipend afresh since the cost of living had gone up considerably. Unfortunately, as pointed out by Mr Manmohan, the NBE was not present on the date on which the said decision was rendered by the Division Bench. Had advance notice gone to them, the NBE would have been in a position to point out to the Division Bench the Memorandum of Association and Rules and Regulations of the NBE and in particular Object 3(xxv) which reads as under:-

> "(xxv) To institute offers and grants, prizes, awards, scholarships, research grants and stipends in furtherance of the objects of the Board."

This shows that the NBE is the authority which fixes the stipends in furtherance of its other objects.

9. Returning to the facts of the present cases, on 04.05.2006, Tirath Ram Shah Hospital applied for renewal of accreditation for its DNB course of

the Paediatrics department for the period subsequent to December, 2006. Shortly thereafter, on 08.05.2006, the impugned circular, indicating the policy decision of the NBE, was issued. The circular reads as under :

"To : Director / DNB Coordinators,
Of
Accredited Hospitals / Institutions

Sub : Policy decisions – Stipend to DNB Trainees

Sir,

I am directed to convey to you that, in pursuance to the judgment delivered by the Hon'ble High Court of Delhi on 23rd November, 2005 and 6th January, 2006, the competent authority has decided the following :-

1. Payment of stipend to DNB trainees is mandatory for all NBE accredited institutions.

2. DNB trainees shall be paid monthly stipend equivalent to the sum paid to MD / MS / DM / MCh trainees by respective State Govts., in institutions owned by them.

3. The trainee(s) shall be paid monthly stipend as per Clause 92) above or as mentioned in the table below, whichever is HIGHER:-

Programme	***First year***	***Second year***	***Third year***
Broad Specialties	Rs.10,000/-	Rs.11,000/-	Rs.12,000/-
Super Specialties	Rs.14,000/-	Rs.15,000/-	Rs.16,000/-

4. The DNB candidates in accredited institutions in Delhi shall be paid monthly stipend of a minimum Rs.19,000/- or the stipend paid by the Government of India / Govt of NCT of Delhi to their MD / MS / DM / MCh trainees in their respective year of studies, whichever is HIGHER.

5. In strict compliance to the judgment delivered by the Hon'ble High Court of Delhi, on 6th January, 2006, DNB trainee(s) in Delhi shall be paid monthly stipend as per Clause 94) above w.e.f. 1st January, 2006.

6. Notwithstanding the above, stipend to DNB trainees shall always be in equivalence to the sum paid by respective State Govts. as they revise them from time to time, or, as mentioned in Clause (3) and (4), whichever is HIGHER.

All accredited institutions are requested to implement these revised guidelines on stipend with IMMEDIATE EFFECT. This letter supersedes all earlier communications from NBE on stipend."

A reading of the above circular would indicate that DNB candidates, in accredited Institutions in Delhi, were required to be paid a monthly stipend of a minimum Rs.19,000/- or the stipend paid by the Government of India / Government of NCT of Delhi to their MD / MS / MCh trainees in their respective year of studies, whichever was higher.

10. A plain reading of the circular would also give the impression that the same had been issued pursuant to the decision of a learned Single Judge of this court of 06.01.2006 fixing the stipend of Rs.19,000/-. According to the petitioners (Hospitals) such a policy decision ought not to have been taken because the order dated 06.01.2006 of the learned Single Judge had been set aside by the Division Bench. However, according to the learned counsel appearing for the DNB trainees and for the NBE, the setting aside of the learned Single Judge's order dated 06.01.2006 did not affect the power of the NBE to fix a stipend. According to Mr Manmohan, although the circular refers to the orders dated 23.11.2005 and 06.01.2006, the fixation of a sum of Rs.19,000/- was actually based on an independent study done by a three

member committee constituted by the NBE prior to the issuance of the circular and in consultation with some of the accredited Institutions / hospitals. This, according to Mr Manmohan, is explained by a letter dated 21.06.2006 written by the NBE to the hospitals. It clarifies the position in detail. The letter dated 21.06.2006 which was issued to the hospitals clearly indicates that the NBE had constituted a three member committee to study and recommend the payment of stipend to DNB candidates. The three member committee had recommended that payment of stipend to DNB candidates was a must and it should also be commensurate with the status of a qualified doctor. The letter of 21.06.2006 has reference to the decision in ***Dr Vishal Sehgal &Ors*** (supra) of the learned Single Judge as also the decision of the learned Single Judge in the case of ***Shiv Shankar Shahi*** (supra) and its reversal by the Division Bench in LPA 528-29/2006 on 31.3.2006. It was noted in the letter dated 21.06.2006 that the Division Bench at the first hearing of the Latters Patent Appeal on 31.3.2006 had disposed of the same. The Division Bench had set aside the order dated 06.01.2006 passed by the learned Single Judge. It was contended in the letter dated 21.06.2006 that a bare perusal of the judgment dated 31.03.2006 passed by the Division Bench indicates that the judgment of the Single Judge had been set aside purely on the ground that the learned Single Judge had fixed the stipend at Rs 19,000/- per month and that at the same time there was no fault found with the policy of payment of stipend to DNB candidates and that the question of grant of stipends should be considered afresh because the stipend of

Rs.10,000/- per month, as it appeared to the Division Bench, was inadequate. It was further stated in the letter dated 21.06.2006 that the NBE, while formulating the stipend policy as afore-stated, had considered all the relevant factors including various judgments passed by the court and have only thereafter issued the policy guidelines for payment of stipends. The figure of Rs.19,000/- was accepted by NBE as a monthly stipend to DNB candidates as the same had emerged during the deliberations and was also a reasonable amount in the opinion of the NBE and the said amount had also incidentally matched with the monthly stipend proposed by the major stakeholders. It was also pointed out in the said letter dated 21.06.2006 that DNB qualifications have been equated with the MD / MS decree and, therefore, it would not be out of line to suggest a stipend which is more or less equivalent to the stipend paid to MD / MS trainees.

11. Subsequently, there is a letter on record written by Tirath Ram Shah Hospital on 27.07.2006 with reference to the policy guidelines issued on 08.05.2006 stating that :-

> "As regards the payments of stipend is concerned, please note that we are not in a position to pay the same at enhanced rate of Rs.19,000/- as per your guidelines as contained in your order No. ACC/Policy/Stipend/227 to 702 dated 8th May, 2006."

Thereafter, the impugned letters of February were issued by the NBE refusing further accreditation to the hospitals on the ground of non compliance of the payment of stipend at the monthly rate of Rs.19,000/- per month as directed in the circular dated 08.05.2006. Insofar as the Jaipur Golden Hospital is concerned, provisional accreditation had been given to the hospital on 24.1.2007 but the same was subsequently withdrawn on 13.02.2007 on the same ground that the circular of 08.05.2006 was not being complied with by the said hospitals.

12. The records of the Stipend Committee, which was constituted by the NBE, were produced before this Court. There is a letter dated 16.11.2005 on the said file, issued by the Executive Director of the NBE on the subject "Committee for Recommendations for Payment of Stipend to DNB Trainees". The letter indicates that a committee had been constituted for recommendations of payment of stipend and the constitution of the members of the committee was also provided in the said letter. The names of the members of the committee are not being disclosed on the request made by Mr Manmohan, the learned senior counsel appearing on behalf of the NBE, to protect the interests of the members of the committee. However, it is sufficient to indicate that a three member committee comprising of eminent and independent persons, was constituted.

13. The first meeting of the Stipend Committee was held on 30.11.2005. The minutes of the meeting indicate that the committee was concerned about the grievances of candidates with regard to the fixation of stipend. It also noted that various writ petitions had been filed by the candidates in various courts in India in respect of stipend issue. This was the preliminary meeting and the committee members had decided to examine the files available with the accreditation section of NBE and also to ascertain the amount of stipend paid by various hospitals to MD/MS/DM/MCh candidates. Thereafter, the committee met on 27.12.2005. The minutes of the meeting of that date disclose that the committee members had contacted various hospitals for taking their inputs for payment of stipend to DNB trainees/ candidates. The sample-accredited hospitals requested the committee members for not disclosing their names as that would create bad blood amongst various accredited institutes. It is for this reason that the committee members thought it fit not to disclose the names of the sample institutes. The committee then met on 27.02.2006. This meeting was subsequent to the decision of the learned Single Judge of this Court on 06.01.2006 in the case of ***Shiv Shankar Shahi*** *(supra),* wherein the learned Single Judge had directed the fixation of stipend for DNB candidates at Rs.19,000/- per month. The committee took note of the decision of the learned Single Judge. However, the committee continued with its own deliberations with regard to fixation of stipend. The next meeting of the committee was held on 28.03.2006. The committee noted that on the basis

of information received, the DNB trainees in Delhi were being paid stipends as low as Rs.10,000/- per month in Government Hospitals and as high as Rs.28,000/- per month in private hospitals. Though the normal range of stipend being paid in Delhi was between Rs.17,000/- to Rs.21,000/-. It was pointed out that the DNB candidates have to spend a substantial amount of the stipend money towards purchase of academic material as these facilities are not available in all hospitals. It is also noted that the DNB candidates are normally in the age group of 25 years to 30 years, having families of their own to support besides incurring expenses on the academics and that their cost of living also goes up with their round-the-clock strenuous duties. After going through the circulars and guidelines of the NBE, the committee members came to the conclusion that the NBE was also in favour of payment of stipends to the DNB candidates. It was also indicated that the committee members wanted to seek certain clarifications on legal issues and that the committee would come to a final conclusion subsequently.

14. The next and final meeting of the Stipend Committee took place on 21.04.2006. In the meanwhile, the decision of the Division Bench dated 31.03.2006, setting aside the judgment and order of the learned Single Judge, had come. The committee took note of the said decision of the Division Bench and actively considered the scope and effect of the order passed by the Division Bench. Since the committee was concerned about the legal effect on the

working of the present committee, the opinion of their advocate was taken. Their advocate, Mr Rakesh Gosain, informed the committee members, after referring to all the orders and judgments and also Clause 3 (xxv) of the Objectives of the NBE, that the power of fixation of stipend for DNB candidates is only with the NBE. The said advocate also pointed out that the existence of power of the NBE to fix the stipends, was not contradicted by any of the judgments. Accordingly, the committee members took the view that Rs.19,000/- per month would be an appropriate amount for stipend to DNB candidates in Delhi. Keeping in mind the normal range of Rs.17,000/- to Rs.21,000/- that was being paid to such candidates by accredited institutions in Delhi, this figure of Rs.19,000/- per month was arrived at by taking the average of Rs.17,000/- and Rs.21,000/-. A separate criteria for fixation of payment of stipend for institutions outside Delhi was given, with which we are not concerned in the present petitions. The committee also took note of the fact that the DNB qualification is equivalent to MD/MS/DM/MCh in all respects and, therefore, the unanimous recommendation of the committee for payment of monthly stipend to DNB candidates in Delhi was as under:-

> "The DNB candidates in accredited institutions in Delhi shall be paid monthly stipend of a minimum of Rs.19,000/- or the stipend paid by the Government of India/Government of NCT of Delhi to their MD/MS/DM/MCh trainees in their respective year of studies whichever is higher".

15. This unanimous recommendation was forwarded to the NBE and since they were also concerned about the legal effect of the various decisions passed by the learned Single Judges and the Division Bench, a legal opinion of the advocate was sought. The legal opinion was given and the same is on record of the file maintained by the NBE. Being satisfied with the legal opinion obtained from the advocate as well as the recommendation received from the Stipend Committee, the circular dated 08.05.2006 was issued, which, in essence, was the culmination of the entire proceedings before the Stipend Committee.

16. Having examined the records available with the NBE, it is apparent that the stipend of Rs.19,000/- per month for DNB trainees has been fixed not merely on the basis of the decision of the learned Single Judge dated 06.01.2006 but on the basis of an independent and separate enquiry and investigation conducted by the committee itself. Even the Division Bench decision of 31.03.2006, which set aside the order of the learned Single Judge, made it clear that, ordinarily, it is not for the court to fix the amount of stipend but for the executive. In this case, it is clear that the power of fixing the stipend vests with the NBE. This aspect has not been negated by the Division Bench while passing the order dated 31.03.2006 and this aspect was clearly confirmed by the learned Single Judge in the ***Dr. Vishal Sehgal case*** (supra) in paragraph 56 of the said decision by observing that the quantum has to be worked out by

the hospital in consultation with the NBE. In that case, the hospital was Deen Dayal Upadhyay Hospital. There is no doubt that the exact quantum that is to be paid by way of stipend may be worked out by the accredited institution/ hospital in consultation with the NBE. However, it is open to the NBE to fix a minimum amount of stipend to be paid by any of the accredited institutions. In the present case, the circular had merely prescribed the minimum amount of stipend and it is always open to the accredited institutions to fix a higher amount of stipend in consultation with the NBE. In my view, that is the manner in which the decision of the learned Single Judge in the case of ***Dr. Vishal Sehgal*** (supra) has to be construed.

17. It is therefore clear that the impugned circular dated 08.05.2006, although it ostensibly gives an indication that it was passed merely on the basis of the decision of the learned Single Judge passed on 06.01.2006, has actually been issued after deliberations of the Stipend Committee, which has come to an independent conclusion, based on logical reasoning and sound premises. The reasoning being that the average stipend being paid in Delhi for DNB candidates was between Rs.17,000/- to Rs.21,000/- and the committee thought it fit to fix the average of these two limits, which came to Rs.19,000/- per month. It is another matter that this amount has coincided with what the learned Single Judge had recommended / directed by his order dated 06.01.2006. The Division Bench decision, upsetting this direction of the

learned Single Judge, did not in any way come in the way of the NBE to independently fix the amount of Rs.19,000/- per month by way of a stipend. This is what has been done by the NBE and, therefore, the circular dated 08.05.2006 cannot be faulted. Consequently, the grievance of the petitioner that accreditation was not being granted for non-compliance with the conditions of this circular, is also not well founded.

18. The learned counsel for the hospitals submitted that, in any event, rules of natural justice ought to have been followed before the circular dated 08.05.2006 was issued. He submitted that the petitioner/hospitals ought to have also been consulted or heard before the amount was fixed. In the present case, the committee had gone through with its deliberations starting from 16.11.2005 and ending on 21.04.2006. It has looked into various pieces of information collected by it and has also taken a sample of the accredited institutions to arrive at the said decision. Although practical considerations alone cannot be sufficient to override the requirements of natural justice, it must be seen as to whether the procedure adopted by the Stipend Committee was reasonable or not. In my view, the committee has followed a very reasonable approach and has considered the entire range of stipends, which includes not only those institutions which were taken in the sample but also others and the committee has fairly taken the view that the average stipend should be fixed as the

minimum. This has been fixed taking into the interests of the DNB candidates. I see no infirmity in the procedure adopted by the respondents.

19. Accordingly, the writ petitions filed by the Jaipur Golden Hospital and Tirath Ram Hospital are dismissed. Insofar as the writ petition filed on behalf of the DNB trainees is concerned, I am of the view that their grievances have been taken care of by the circular dated 08.05.2006 and which ought to be implemented in letter and spirit. The parties shall bear their own costs.

BADAR DURREZ AHMED
(JUDGE)

March 20, 2007
M+ SR